

REMARKS/ARGUMENTS

In the Office action dated October 11, 2005, the Examiner rejected claims 1, 2, 4, 5, 7-10 and 12 under 35 U.S. C. § 102(b) as being anticipated by U. S. Patent No. 3,223,389 to Simmonds. Claims 1, 4 and 7 were rejected under 35 U.S. C. § 102(b) as being anticipated by U. S. Patent No. 3,559,962 to Enssle *et al.* Claim 3 was rejected under 35 U.S.C. § 103(a) as being unpatentable over '389. Claims 6, 11 and 13-17 were rejected under 35 U.S.C. § 103(a) as being unpatentable over '389 in view of U. S. Patent No. 4,083,653 to Stiffler or U. S. Patent No. 4,872,764 to McClean.

In the Specification, no changes

In the Claims, Claims 1, 8 and 13 are amended. Claims 2-5, 9, 10 12 and 15-17 are cancelled.

The Invention

This invention is a mixing apparatus, and specifically a mixing wand which is insertable through a pour spout on a container of material to be mixed. The mixing wand includes a mixer assembly attached to an elongate shaft at a mixer attachment end thereof by a fixing mechanism, for rotation relative to said longitudinal axis. The mixer assembly of the amended claims includes a flexible polymer blade set having plural, integrally formed blades, wherein each blade has a twist intermediate an attachment end which is attached to a blade set hub. When the elongate shaft is rotated in a first direction, the blades of the mixer assembly flex outwardly, thus rotating to an extended condition; and when the elongate shaft rotates in a second direction, the mixer assembly rotates to a substantially collapsed condition.

The Applied Art

U. S. Patent No. 3,223,389 to Simmonds, granted December 14, 1965 shows collapsible metal, non-flexible mixing blades which are insertable through a relatively small opening in the top of the drum, which abut a stop surface.

U. S. Patent No. 3,559,962 to Enssle *et al.*, granted February 2, 1971, shows the presence of a stop surface on a mixing wand.

U. S. Patent No. 4,083,653 to Stiffler, granted April 11, 1978, shows connection of a shaft having a reduced diameter portion into a power drill, and also shows collapsible mixing blades and a stop.

U. S. Patent No. 4,872,764 to McClean, granted October 10, 1989, shows a cocktail shaker which includes collapsible blades and a reduced diameter shaft for connection to a drive mechanism.

The Claims

The independent claims have been amended to recites, in every case, that the mixer assembly includes a flexible polymer blade set. This is consistent with the Specification, page 6, line 11 to page 7, lines 4, and Fig. 9. the polymer blades flex, upon rotation in a first direction, to extend or rotate outwardly to provide a mixing force to the material being mixed. When rotated in the opposite direction, the blades flex inwardly, thus collapsing to a state where they may be withdrawn from a narrow opening in a container. Although the Examiner states that such construction is obvious in light of '389 because polymer mixing blades are known, Applicant contents that this rejection is not well taken. Initially, the Examiner does not provide any art whatsoever showing a polymer mixing blade. If such devices are know, production of patent or

non-patent literature should be fairly simple. Further, '389 says little about the material used in the device of the patent, however, it is clear that the blades are metallic and non-flexible. Thus, the newly added limitation to claims 1, 8 and 13 renders the claims allowable over the applied art.

The remaining claims are allowable with their allowable parent claims.

In light of the foregoing amendment and remarks, the Examiner is respectfully requested to reconsider the rejections and objections stated in the Office action, and pass the application to allowance. If the Examiner has any questions regarding the amendment or remarks, the Examiner is invited to contact the undersigned.

Provisional Request for Extension of time in Which to Respond

Should this response be deemed to be untimely, Applicants hereby request an extension of time under 37 C.F.R. § 1.136. A PTO Form 2038 credit card authorization in the amount of is enclosed. The Commissioner is hereby authorized to charge any additional fees which may be required, or credit any over-payment to Account No. 22-0258.

Customer Number

23855

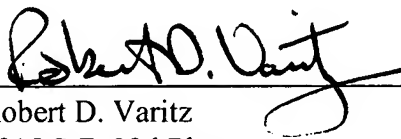
Respectfully Submitted,

ROBERT D. VARITZ, P.C.

Registration No: 31436

Telephone: 503-720-1983

Facsimile: 503-233-7730


Robert D. Varitz
4915 S.E. 33d Place
Portland, Oregon 97202

CERTIFICATE OF EXPRESS MAILING

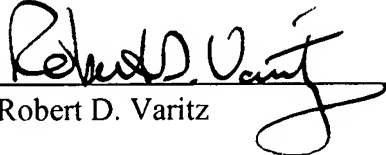
"Express Mail" Mailing Label No.

Date of Deposit - January 5, 2006

EV756094759US)

I hereby certify that the attached Response to Office Action under 37 C.F.R. § 1.111, and A CHANGE OF CORRESPONDENCE ADDRESS & CUSTOMER NUMBER are being deposited with the United States Postal Service "Express Mail Post Office to Addressee" service under 37 C.F.R. 1.10 on the date indicated above and is addressed to:

Mail Stop AMENDMENT
Commissioner for Patents
P.O. Box 1450
Washington, D.C. 22313-1450


Robert D. Varitz